



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/362,631 07/21/99 MOSSO

R N19.12-0020

024113

IM52/1022

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EXAMINER

MAYEKAR, K

ART UNIT	PAPER NUMBER
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1741

14

DATE MAILED:

10/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/362,631	Applicant(s) R.MOSSO et al.
	Examiner Kishor Mayekar	Art Unit 1741

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Aug 2, 2001
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 20-27 and 52-62 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 20-27 and 52-62 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) Other: _____

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DETAILED ACTION

Continued Prosecution Application

1. The request filed on 08/02/01 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/362,631 is acceptable and a CPA has been established. An action on the CPA follows.

Response to Amendment

2. The amendment filed 08/02/01 with respect to the specification in pages 15, 16 and 21 have not been entered because of incorrect pages and/or lines.

Claim Rejections - 35 USC § 103

3. Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over

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JP 61-67836 in view of KNUDSEN et al. (4,957,884), both references cited by Applicant. The Japanese reference's invention, a reference cited in the last Office action, is directed to fine powder manufacturing apparatus using a laser. The reference discloses in Fig. 2 a prior-art apparatus comprises a reactant inlet (6) configured to direct a reactant stream (8) toward a product outlet and a filter (9) connected to the product outlet to collect the product particles generated by the reactants from the reactant inlet. The difference between the prior art disclosed in the reference and the above claims is the recited plurality of reactant inlets. KNUDSEN shows the merging of two reactants from two reactant sources into a single inlet in fine powder manufacturing apparatus using a laser. The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Japanese reference's teachings as suggested by KNUDSEN because this would result in proper mixing and/or controlling the flow rate of each of the reactants prior to merge them into a single stream to the inlet of the apparatus.

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4. Claims 20-27, 52 and 56-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 61-67836 in view of BEATY et al. (5,194,128). The Japanese reference's invention as applied above further discloses in Fig. 1 an apparatus which comprises the recited plurality of reactant inlets. The difference between the reference and the above claims is the recited particle collection apparatus. BEATY shows in fine powder manufacturing apparatus the merging of two separate particle streams into a single stream and subsequently the directing of the merged stream to a collector (Fig. 5). The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Japanese reference's teachings as suggested by BEATY because it has been held that the motivation to make a specific structure is always related to the properties or uses one skilled in the art would expect the structure to have, *In re Newell* 13 USPO 1248, *Fromson v. Advance Offset Plate* 225 USPO 26, *In re Gyurik* 201 USPO 552 and because this would result in collections of fine powders from individual sources or of combinations of the fine powders.

As to the subject matter of claims 23 and 25-27, the subject matter as a

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whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the reference's teachings because the motivation to make elements separable was held to have been obvious, *In re Dulberg* 129 USPQ 148.

As to the subject matter of claims 58-62, BEATY shows in Fig. 4 each of the limitations in each of claims 58-62. The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Japanese reference's teachings as shown by BEATY because the selection of any of known separation of fine powders from the gas phase would have been within the level of ordinary skill in the art.

5. Claims 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '836 as modified by BEATY '128 as applied to claims 20-27, 52 and 56-62 above, and further in view of BEATY '128. The difference between the references applied above and the instant claims are the subjected matter presented in each of the instant claims.

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BEATY as applied above shows the subject matters of claims 53 and 54. The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the references' teachings as suggested by KNUDSEN because this would result in proper mixing and/or controlling the flow rate of each of the reactants prior to merge them into a single stream to the inlet of the apparatus.

As to the subject matter of claim 55, the provision of an extra inlet would have been within the level of ordinary skill in the art if one needs an extra reactant for the reaction.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kishor Mayekar whose telephone number is (703) 308-0477. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathryn Gorgos, can be reached on (703) 308-3328. The fax phone number for this Group is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

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K. Mayekar

Kishor Mayekar
Primary Examiner
Group 1700

KM

October 18, 2001